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World Chronicle

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GUEST: **Judge Abdul Koroma**
International Court of Justice

JOURNALISTS: Norberto Svarzman, Televisa-Eco
James Bone, *The Times of London*

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THE INTERNATIONAL COURT OF JUSTICE

Judge ABDUL KOROMA of the International Court of Justice discusses how the Court settles, in accordance with International Law, the legal disputes submitted to it by States. The Court decision is binding on the parties concerned. Cases involving offences committed by individuals or groups are handled by The International Criminal Court. The composition of the Court reflects the different legal systems of the World. Judge Koroma notes that the utilisation of modern technology has expedited the work of the Court.

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ANNOUNCER: From United Nations Headquarters in New York, this is **World Chronicle**, an unedited interview programme about major global issues. Here now to introduce our guest is the host of today's **World Chronicle**.

LITTLEJOHNS: I'm Michael Littlejohns, and this is **World Chronicle**.

When the United Nations is mentioned, people often think of the Security Council or the General Assembly or one of the specialized agencies. However, at the end of World War II the founding fathers of the international organization created a principal judicial organ, the International Court of Justice. Seated in The Hague in the Netherlands, the fifteen-judge court has been playing an increasing role in the development of international law.

Our guest today was recently elected to the World Court. He's Judge Abdul Koroma, who is also the Permanent Representative of his country, Sierra Leone, to the United Nations. Judge Koroma brings with him to the International Court many years of experience in the judicial and diplomatic fields. Joining me to talk to Judge Koroma are Norberto Svarzman of Televisa-Eco and James Bone of *The Times* of London. Judge Koroma, welcome to World Chronicle.

As we've just noted in the introduction, people are probably not too familiar with the International Court of Justice, or the World Court, as we generally call it. Tell us a bit about the Court. How, for example, are the judges elected, and how do you go about your business? What are your legal guidelines, what systems of law do you follow? I mean, do you embrace all the legal systems in the world? How is it done?

KOROMA: Well, as you know, the International Court of Justice, or the World Court, is the principal judicial organ of the United Nations, and its primary function is to decide cases or conflicts brought to it by Member States or parties to the Statute of the Court. The Court is composed of fifteen judges who are elected both by the General Assembly and the Security Council simultaneously. The law applied by the Court is mainly international law. According to the Statute of the Court, the Court applies international conventions and customs. But the reference you made to the major legal systems is that, again according to the provision of the United Nations Charter, the principal legal systems of the world should be represented on the Court by election of judges who are acquainted -- who have competent knowledge of the law, of the major legal systems of the world.

LITTLEJOHNS: The Supreme Court of the United States, for example, is not obligated to hand down a judgement or to take up a case. It can refuse to do so. Is that also the case with the International Court? I mean, if a government submits a case to the Court, you judges can say, well, sorry, we're not going to deal with it?

KOROMA: Well, as you know, when a dispute is submitted to the International Court of Justice the Court has to determine whether it has got jurisdiction to hear the dispute or whether in fact the dispute itself is within the confines, within the parameters of the Court. Yes, and the Court has got that power. It has to determine its own jurisdiction, its own competence.

SVARZMAN: Regarding the jurisdiction, Judge, you were created fifty years ago. Now the circumstances have changed very much, and there are certain questions -- for example, the question of ethnic cleansing in the Balkans: can a group of citizens go to the Court and ask for protection?

LITTLEJOHNS: Ask for what? Protection?

SVARZMAN: Protection or a judgement against another State who is doing ethnic cleansing or massacres or whatever?

KOROMA: As you are aware, the Court adjudicates disputes only between States and, in some cases, if the General Assembly or the specialized agencies request an advice or opinion. Now, to specifically answer your question, citizens cannot bring disputes to the International Court of Justice.

SVARZMAN: What about a group of citizens whose lives are, say, menaced, their lives and customs are menaced by another group?

KOROMA: Of course, it's a very important issue, the question of genocide, what you refer to as "ethnic cleansing". But maybe, if citizens want to bring a case or a dispute to the Court on such a very grave issue, it has to be done through the State or a group of States.

BONE: Judge, can I -- you've been very involved in something, a project to set up an international criminal court where -- what they call individual jurisdiction -- where you can bring individuals before the court and actually try them. You have, in the past, been part of a group working for the International Law Commission to draw up the statute of this court. This is becoming more and more of a pressing issue. We see the case of Lockerbie, where there are two Libyan suspects who are wanted in Britain and the United States for bombing the Lockerbie -- the airline, Pan American airline over Scotland; we see it in the case of former Yugoslavia, where they're accused of war crimes; we see it with drug dealers, all kinds of things. Can you tell us about the progress on this front, the idea of bringing individuals before international courts?

KOROMA: Yes. That is one of the fundamental differences, if I may say so, between the International Court of Justice and the proposed international criminal court. Whereas, as I said, the International Court of Justice basically decides disputes between States, according to the provisional statute of the international criminal court, individuals

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can be brought before the international criminal court for transgressions, alleged offenses, alleged violations of grave offenses. So yes, individuals can appear before the international criminal court, but not before the International Court of Justice.

BONE: Now the General Assembly has given the go ahead for planning for the creation of this new criminal court. First of all, do you think it's ever going to exist? And secondly, what kind of crimes can it try? I mean there's been a lot of dispute. Some people say it should try, for instance, the crime of colonialism. The western countries oppose that. Can you tell us whether you think it's going to happen ever, and what kind of crimes it would try individuals for?

KOROMA: Well, the reception of the provisional statute which has been elaborated by the International Commission has been very positive, has been favourable, favourably considered by the General Assembly, and, as you pointed out, the International Commission has been mandated by the General Assembly to continue its work on the statute for an international criminal court.

You ask whether I think it's ever going to happen. I think my response would be that it is possible, it's likely. I think the international community is moving in that direction. It seems as if public opinion is in favour of such a statute provided it can strike the right balance, not to be seen to be too interfering, as it were, in the domestic affairs of States in those areas, in those disputes, in those violations of international law each State themselves can handle. And, say, for the grave offenses, I think there is a point of view, an imagined view, that such transgressions, such violations, such alleged offenses should be brought before an international criminal court.

SVARZMAN: Judge, you spoke about the interference in the internal affairs of States. Some States say that, for example, the question of human rights is an internal affair. You think the Court, whatever court of the United Nations, should have jurisdiction over that?

KOROMA: Well, you know, if you view -- again, there are certain conventions -- the Covenant on Civil and Political Rights, for example, is an international convention, it's an international treaty; so also is the genocide convention, the convention against genocide [Convention on the Prevention and Punishment of the Crime of Genocide]. These are all international treaties, and if they are violated, of course then States can bring parties, or the violators, or alleged violators of those conventions before the Court to determine whether the conventions have been in fact violated by a party to the convention.

SVARZMAN: But so far certain countries reject the idea.

KOROMA: So what I'm trying to say -- you asked specifically -- I'm arguing that in fact the commission of the crime of genocide is also a violation of human rights, and of course if the human rights legislation's international instruments are also violated, it would be tantamount to a violation of human rights. And such transgressions could be brought before the International Court of Justice to determine whether in fact the treaties themselves have been, or the covenant has been, violated.

BONE: But the question then is the remedies or punishments. The International Court doesn't have the power to punish individuals, it can only rule against States, isn't that right?

KOROMA: Yes, that's right.

BONE: And we seem to be living in a time of some innovation in international law. We've recently had the creation of a new international court by the UN, the international war crimes tribunal for the former Yugoslavia [The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991]. Now, this court will have power to sentence war criminals from the former Yugoslavia. What do you think about that? Do you think that's going to work?

KOROMA: Well, of course, that again is one of the innovations of the proposed international criminal court which has provision for sentencing, for punishment, for example. And also, as you said, a tribunal on Yugoslavia has provisions for sentencing and punishment. But no, the International Court of Justice is not that body to try individuals. That is, as I said, one of the differences between the two bodies.

LITTLEJOHNS: One of the weaknesses of the International Court of Justice, Judge Koroma, surely is that governments are not obliged to accept the rulings or the opinions of the Court, is that not the case? I mean, supposing a government brings a case to the Court against another government; the government who is sued in effect is not obliged to accept your decision.

KOROMA: No, Mr. Littlejohns. In fact the decisions of the Court, the judgements of the Court are binding on the parties to the dispute. They are binding on the parties.

LITTLEJOHNS: They are binding?

KOROMA: Yes.

LITTLEJOHNS: I thought that there was a case -- wasn't it between the United States and Cuba? -- where the United States said that they wouldn't --

SVARZMAN: Nicaragua, the mining.

LITTLEJOHNS: -- Nicaragua, yes -- that they wouldn't accept the binding jurisdiction of the court?

KOROMA: No, according to the Charter of the United Nations [and the] the Statute of the Court, the judgement of the Court, decisions of the Court are binding on the parties to a dispute.

SVARZMAN: But still it's very difficult for -- again let me go back to my original question -- for individuals, or groups of individuals, to go to the Court. But you mention the crime of genocide. But in the Declaration of Human Rights, there are other rights -- for example, free elections, freedom of expression, freedom of religion -- which we know are violated in certain countries of the world. So how can that -- the Court can also take issue on those questions?

KOROMA: If a State, a party to the Covenant on Civil and Political Rights brings a matter, a dispute, to the International Court of Justice alleging that another party to the Statute or the Covenant has violated the Covenant, I believe the Court could be seized of the matter.

SVARZMAN: Could, only.

LITTLEJOHNS: This is World Chronicle. Our guest is Judge Abdul Koroma of the International Court of Justice.

BONE: Judge, I'd like to ask you about the question of the Lockerbie suspects. I mean, in this case, Libya says they're Libyan nationals, we have no obligation to extradite them. There's actually a convention, the Montreal Convention on Civil Air Traffic, which says that we, the country itself where the people are from, should have the first bite at prosecuting them, if they think they're guilty. Yet, the Americans and the British continue to insist that these Libyan nationals be extradited, deported -- call it what you will -- to either Britain or the United States for trial. And the International Court seems to be caught in the middle between the Security Council, which is acting at the instigation of the British and the Americans, and what, maybe, the legal position is going to be. What do you think about that situation?

KOROMA: Well, I am aware that the dispute is before the Court. But, as you would appreciate, I have not yet had time to look at the file and thus would say I think it's a matter which is sub-judicial. I'm not in a position at the moment to give an opinion on the matter.

SVARZMAN: Yes, sir. There's another political, very difficult, situation. As you know, North Korea is refusing, so far, the inspection of the nuclear site on which, allegedly, they are trying to produce an atomic bomb. This created a menace to

international security and the peace and the stability of the region. That issue also can be brought in front of the Court?

KOROMA: In the context of interpreting, for example the Non-Proliferation Treaty [Treaty on the Non-Proliferation of Nuclear Weapons], I believe that a case could be brought before the International Court of Justice to determine whether the Non-Proliferation Treaty is being honoured or is being respected.

BONE: Judge, one of the things that's always struck me about the International Court of Justice, you say it's got fifteen judges, they all come from different countries, and they quite often, it seems, vote along national lines. I mean, they vote the way their governments would vote if their governments themselves had the vote. Is that the situation, that judges basically follow their government's policy on particular disputes brought before the Court?

KOROMA: Yes, it is true that the judges are naturally nationals of their States, but as I stated earlier on, judges are elected not as nationals of their States, but they are expected to represent the major legal systems of the world. And I think I would like to say, based on my knowledge, that the judges have tended not to vote or not to decide cases according to the wishes of their respective States, but based on the facts and the law as they know it. So no, I think I would not want to agree with you that judges decide cases based on promptings or the wishes of the individual States.

BONE: Maybe it's just natural affinity.

LITTLEJOHNS: In your case, sir, do you consider yourself to be the representative of Africa on the Court? Or are you entirely independent of your, shall I say, national ethnic background?

KOROMA: I'm supposed to be representing one of the major legal systems of the world. Of course, there is an African component of the Court, but I'm supposed to be representing a legal system on the Court, to bring my experience of that system to bear on the judgements, or decisions, or deliberations of the Court.

LITTLEJOHNS: The legal system of Sierra Leone is similar to that of the United Kingdom?

KOROMA: Yes. We practice the Common Law, yes.

SVARZMAN: Mr. Koroma, the Court seems to be a little bit detached of the world people. I am from Latin America, and people know very little about how you work, about even that you exist, the Court exists. Why is this? Would it not be better to have sometimes meetings of the Court in certain capitals of the world, or have meetings with legal experts, et cetera, to popularize the idea that the Court exists and that people and States can go to the Court?

KOROMA: Yes. There would be an advantage in making known the functions of the Court to the world community at large. But, at the same time, I think it's an advantage that the Court is cut off, as it were, is immune from the hurly burly of day-to-day international politics, such as what takes place, say, at the United Nations or the Security Council. The Court is a deliberative body, and I think it has to maintain that independence, that impartiality to each -- a body to which States can turn for a second or another opinion in the settlement of their disputes.

I think at times, you know, conflicts become so heated, especially when parties are involved, but maybe if you have a third party to adjudicate such a dispute, to give a third opinion, as it were, I think that tends to resonate well with the parties to the conflict.

There is no theoretical reason why the Court cannot move from one capital to the other. But so far, The Hague has proved a very ideal, if I may say so, location. The Netherlands is a small country, and The Hague itself has a very sedate peaceful atmosphere with libraries, and the working conditions are conducive to that deliberative process for which the Court is known.

BONE: Judge, I think you have worked in your career on the Law of the Sea, is that right?

KOROMA: Yes.

BONE: Yes. Now as I understand the situation -- I may be wrong -- I understand that the Law of the Sea treaty is now coming into force within a year or something.

KOROMA: That's right.

BONE: And still the United States has not agreed to the Law of the Sea treaty, or at least the provisions on deep seabed mining, which is very controversial. Is that correct?

KOROMA: That's correct.

BONE: So what's going to happen? You've got a treaty, an international treaty coming into force that proposes to regulate deep seabed mining, including the setting up of some kind of seabed authority, as I understand, and yet you have the one country most likely to conduct seabed mining not agreeing to the treaty. What happens here?

KOROMA: Well, as you said, yes, the treaty will come into force this year, 1994, and, as you know, there are still informal consultations taking place. And the United States administration has shown itself to be positively disposed in those consultations, so one would want to keep an open mind that it might still be possible for the United States to become a party to the Convention on the Law of the Sea.

BONE: Would that mean that the rest of the signatories of the treaty would have to renegotiate the treaty if the Americans joined? If the Americans wanted some changes, everyone else would have to change? Or how would it work exactly?

KOROMA: Well, there are various methods, procedures of getting parties to accede to a treaty, so it's possible the United States, if agreement is reached, there could be -- a formula can be found for the United States to come on board to join the Convention.

BONE: And if the US doesn't come on board and just starts deep seabed mining, what happens? Can one of the signatories take the United States to the World Court?

KOROMA: I am not in a position to answer that at the moment.

LITTLEJOHNS: How many sessions per year does the Court hold?

KOROMA: I think it depends on the number of cases. At the moment, the Court has a full -- well, as to the number of cases, it has a full docket, if I may so, compared, say, to twenty years ago.

LITTLEJOHNS: And what parts of the proceedings are held in public?

KOROMA: I think the pleadings are held in public, formal pleadings are usually held in public.

LITTLEJOHNS: And does it take a very long time for the judges to reach decisions? Does one judge write the Court's opinion and the others agree or disagree, who have an area of dissent, as the Supreme Court of the United States does its business?

KOROMA: The Court has been responding to the demands of the international community. It has been expediting -- it has always been examining and trying to improve its methods of work, its procedures, so it has been accelerating the delivery of each judgement of its opinions. You also asked --?

LITTLEJOHNS: How the decisions are handed down. Is it written by one judge?

KOROMA: As I said, yes, the Court is a deliberative body, and at the end of pleadings, at the end of the formal presentation of the case, the judges sit and deliberate over the case. And of course in some cases it would necessitate voting. The judgements are arrived at on the basis of a majority vote.

LITTLEJOHNS: And one judge writes the opinion and the others say, okay, we go along with it?

KOROMA: I think that is -- I'm not in a position to say that, but I think it would normally be the case that a judge would be assigned to do the opinion. But I'd better not venture into that.

BONE: Judge, most aspects of the international system have changed very drastically since the end of the cold war. Has the Court also changed like that?

KOROMA: Yes, the rules of the Court have changed. They are being, if I may so, taken -- they have taken concerns of the developments taking place in the international community, modernized, if I may use that word. Yes, the rules of procedure of the Court have been increasingly modernized.

BONE: Can you sum up for us how it has changed since the end of the cold war, briefly?

KOROMA: Yes, in terms of the presentation of pleadings in the Court, the Court has taken care to ensure that parties to a dispute are provided with ample opportunity to be able to present their case to the Court. And I think one other innovation or development, if I may say so, is that, due to modern technology, the time for pleading has been reduced. So, you find that cases are taking less and less time before they are brought to a conclusion. Yes, there has been a reduction in the time-frame for the consideration of disputes by the Court.

SVARZMAN: Judge, a quick question because we are short of time. You were in the Committee of 24 on self-determination and independence[1]. What about, nowadays, if a province of one country, or an area of one country, likes to vote for self-determination and secession and the main country objects to it, can that people go to the Court? Will the Court look favourably on that?

KOROMA: I think that's a political question, and as you know the Court handles purely judicial questions. That is likely to be more a question for, say, the particular State or the General Assembly of the United Nations, but not for the Court, per se.

LITTLEJOHNS: Judge, you mentioned that the Court's decisions are binding, but of course resolutions of the Security Council are also binding, but they're often not observed. What can you do in the Court to impose your decisions?

KOROMA: Well, once again I repeat, the decisions, the judgements of the Court are binding on the parties to the dispute. And, again according to the Charter,

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[1] Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

the Security Council is expected or required to enforce the judgements of the International Court of Justice.

LITTLEJOHNS: I see.

Judge Koroma, that's all the time we have, thank you for joining us on this edition of World Chronicle. Our guest has been Judge Abdul Koroma of the International Court of Justice. He was interviewed by Norberto Svarzman of Televisa-Eco and James Bone of the Times of London.

I'm Michael Littlejohns. Thank you for joining us. We invite you to be with us for the next edition of World Chronicle.

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